

Before the
Federal Communications Commission
Washington, D.C. 20554

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OCT 14 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

CC Docket No. 97-21

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

REPLY OF BELL ATLANTIC¹ TO MCI'S OPPOSITION

In their reconsideration petitions, Bell Atlantic and SWBT showed that inclusion of revenues from inside wire maintenance in the calculation of universal service contributions² is inconsistent with Commission policy both on universal service and on inside wire.³ MCI is the only party to oppose those petitions,⁴ claiming that inside wire services are "telecommunications

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

² Inside wire maintenance is included as regulated revenue on the Universal Service Worksheet, Form 457, which was adopted in the *Report and Order and Second Order on Reconsideration*, FCC 97-253. App. C (rel. July 18, 1997).

³ Petition for Partial Reconsideration (filed Sept. 2, 1997) ("Bell Atlantic Petition"), Nevada Bell, Pacific Bell, and Southwestern Bell, Joint Petition for Reconsideration (filed Aug. 29, 1997) ("SWBT").

⁴ Opposition to Petitions for Reconsideration (filed Oct. 2, 1997) ("MCI").

services” and “telecommunications,” even though the Act and Commission precedent show that they are not.

First, under the Act, inside wire does not meet the statutory definition of either telecommunications or telecommunications service. The Act defines “telecommunications” as the “transmission” of information.⁵ The installation or maintenance of inside wiring, however, does not involve transmission. It is the mere placing or maintaining of copper wire or optical fiber on a customer’s property. The customer may choose to use that wiring to carry telecommunications or to carry a non-telecommunications information service, obtained from a provider that may or may not be affiliated with the entity that provides the wiring. Regardless of its use, the installation and maintenance of that wiring is unbundled from any transmission or information service that the entity that provides the wiring service offers.

Nor could inside wiring be considered a “telecommunications service,” which the Act defines as “the offering of telecommunications for a fee to the public.”⁶ A service that does not constitute telecommunications cannot be a telecommunications service.

Second, MCI fails to address the fact that the Commission made an explicit finding in the Universal Service order, a finding that neither MCI nor any other party refuted on reconsideration, that installation and maintenance of internal connections (i.e., inside wiring and associated hardware and software) are “non-telecommunications” activities, and that neither carriers nor non-carriers are required to use revenues from such activities to support universal

⁵ See 47 U.S.C. § 153 (43).

⁶ 47 U.S.C. § 153 (46) (emphasis added).

service.⁷ As Bell Atlantic showed in its Petition, inclusion of “inside wire maintenance” as subject to universal service assessment is inconsistent with the Commission’s own clear contrary finding and should be eliminated.⁸

Third, MCI ignores the long history of inside wiring deregulation in which the Commission severed inside wiring from the telecommunications network and required that the former be offered on a competitive, deregulated, non-common carrier basis.⁹ Instead, MCI cites collocation services and pole attachments as services that, it claims, are not offered over the carrier’s network but are still considered telecommunications services.¹⁰ MCI asserts that, because the revenues from both of these services are included in the base for universal service contributions, so should inside wiring.

Both collocation and pole attachment services are, however, regulated common carrier (i.e., telecommunications) services that are provided on the carrier’s side of the rate demarcation point (either in the central office or on its poles) to all applicable telecommunications service providers. Collocation is regulated at the federal and state levels

⁷ **Report and Order**, FCC 97-157, ¶ 597 (rel. May 8, 1997). MCI points to language in paragraph 451 of that Order to support its argument. However, in that language the Commission finds that internal connections are part of a range of services that are “beyond telecommunications services.” Far from supporting MCI’s argument, the quoted language support’s Bell Atlantic’s and SWBT’s showing that the Commission intended not to include inside wiring as telecommunications service revenue that is subject to assessment for universal service.

⁸ Bell Atlantic Petition at 2.

⁹ *See id.* at 3, citing **Detariffing the Installation and Maintenance of Inside Wiring**, 1 FCC Rcd 1190, ¶ 16 (1986).

¹⁰ MCI at 2-3.

under the Act,¹¹ while pole attachments are regulated either by the states or by the Commission, also pursuant to statute.¹² Both are telecommunications service offerings that help enable competing providers to offer their services. There is also no justification for MCI's unexplained allegation that a telephone company central office or a telephone pole that supports telephone company outside plant is somehow not an integral part of its network.

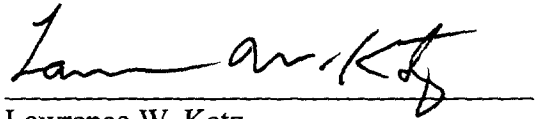
Inside wiring maintenance, by contrast, has been deregulated at the federal level, where it is not a common carrier offering, and is provided entirely on the customer's premises on the customer's side of the rate demarcation point, i.e., not on the carrier's property. Accordingly, there is no validity to MCI's attempt to compare inside wiring to collocation or pole attachments for purposes of assessing universal service contributions.

¹¹ *See* 47 U.S.C. § 251(c)(6).

¹² *See* 47 U.S.C. § 224.

The Commission should deny MCI's attempt to saddle local exchange carriers with higher contributions to universal service than the Universal Service Order requires. Instead, it should grant Bell Atlantic's reconsideration petition and strike the reference to inside wire maintenance on the Universal Service Worksheet.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Lawrence W. Katz", written over a horizontal line.

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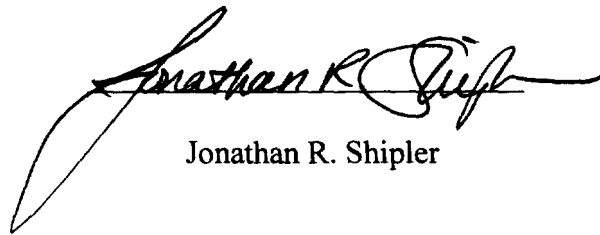
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October 14, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 1997, a copy of the foregoing "Reply of Bell Atlantic to MCI's Opposition" was served by first class U.S. mail, postage prepaid, on the parties listed on the attached service list.

A handwritten signature in black ink, reading "Jonathan R. Shipler". The signature is written in a cursive style with a large, sweeping initial 'J' and a long horizontal line extending to the right.

Jonathan R. Shipler

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